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COMMITTEE ON THE RIGHTS OF THE CHILD

Nineteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Iraq

1. The Committee considered the initial report of Iraq (CRC/C/41/Add.3) at its 482nd to 484th meetings (CRC/C/SR.482-484), held on 23 and 24 September 1998, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report and the written replies to its list of issues (CRC/C/Q/IRAQ/1). It nevertheless regrets that the report did not follow the guidelines established by the Committee. The Committee notes the constructive dialogue it had with the delegation of the State party and the replies it received from the delegation during the discussion.

B. Positive aspects

3. The Committee takes note of the fact that the Convention is self-executing within the State party and that its provisions may be invoked before the courts.

* At the 505th meeting, held on 9 October 1998.

4. The Committee takes note of the development of a National Plan of Action for Children and welcomes the programme for reproductive health implemented by the Association for Family Planning and the Ministry of Health, as well as the Mother and Child Unit established within the Central Statistical Office. The Committee also welcomes the introduction of compulsory education and the development of a programme to combat illiteracy within the State party.

C. Factors and difficulties impeding the implementation of the Convention

5. In the light of General Comment No. 8 adopted by the Committee on Economic, Social and Cultural Rights (1997) and Decision 1998/114 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Committee notes that the embargo imposed by the Security Council has adversely affected the economy and many aspects of daily life, thereby impeding the full enjoyment by the State party's population, particularly children, of their rights to survival, health and education. The Committee also notes that the northern territory is currently not administered by the State party authorities; consequently, the lack of information relevant to the implementation of the Convention on the Rights of the Child in that area is a matter of concern to the Committee.

D. Subjects of concern and Committee recommendations

6. The Committee notes with concern the reservation to article 14.1 made by the State party upon ratification of the Convention. In the light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party to consider the possibility of reviewing the reservation with a view to its withdrawal.

7. While the Committee notes that the State party has developed a substantive legislative framework, it is still concerned that the provisions and principles of the Convention are not fully reflected in law. The Committee recommends that the State party take all appropriate measures to engage, where necessary, in a process of law reform, for example, by enacting a children's code to ensure full compliance with the Convention.

8. The Committee is concerned at the need to strengthen law enforcement in all areas covered by the Convention. It suggests that the State party consider the introduction of a number of policies and programmes that guarantee law enforcement and implementation of the existing legislation through adequate services, remedies and rehabilitation programmes, when appropriate within the framework of international cooperation.

9. While the Committee notes that the Child Welfare Authority, the institution responsible for the implementation of the Convention, enjoys support at the highest official level and is located in the office of the President, it remains concerned at its limited powers. The Committee recommends that the State party seek to strengthen the Child Welfare Authority by increasing its budgetary allocations, as well as its power and authority to implement the Convention.

10. With regard to coordination of programmes and policies, the Committee is concerned at the insufficient coordination between the different bodies and agencies working with and for children. The Committee recommends that further steps be taken by the State party to strengthen coordination between the various government bodies involved in children's rights at both the national and local levels and that greater efforts be made to ensure closer cooperation with non-governmental organizations working in the field of children's rights.

11. The Committee expresses concern at the absence of an independent mechanism to register and address complaints from children concerning violations of their rights under the Convention. The Committee recommends that an independent mechanism be made accessible to children to deal with complaints of violations of their rights and to provide remedies for such violations.

12. While the Committee notes the establishment and expansion of the Mother and Child Unit within the Central Statistical Office, it is still concerned that no adequate measures have been taken for the development of indicators and the systematic collection of disaggregated quantitative and qualitative data on the areas covered by the Convention in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children. The Committee recommends that the system of data collection be reviewed with a view to incorporating all the areas covered by the Convention. Such a system should include all children, with specific emphasis on vulnerable ones, including those who are victims of abuse or ill-treatment, child workers, children involved with the administration of juvenile justice, the girl child, children of single-parent families and children born out of wedlock, abandoned and/or institutionalized children, and children with disabilities. The Committee recommends that the State party consider seeking technical assistance from, inter alia, UNICEF in the development of such a data collection system.

13. In the light of article 4 of the Convention, the Committee is concerned that insufficient attention has been paid to allocating budgetary resources in favour of children "to the maximum extent ... available ... and, where needed, within the framework of international cooperation". It recommends the State party to prioritize budgetary allocation to ensure the protection of the economic, social and cultural rights of children, especially taking into account articles 2, 3 and 4 of the Convention. In this regard, the Committee also recommends that the State party seek to eliminate the disparities between urban and rural areas and between provinces.

14. The Committee notes that professional groups, children and the public at large are not sufficiently aware of the Convention and its principles. The Committee recommends that greater efforts be made to ensure that the principles and provisions of the Convention are widely known and understood by adults and children alike. In this regard, it is recommended that efforts be made to translate the Convention into all minority languages. The Committee also recommends that systematic training and retraining programmes on the rights of the child, as well as in the areas of international human rights and humanitarian law, be organized for professional groups working with and for children, such as judges, lawyers, law enforcement personnel, military officers and personnel, teachers, school administrators, health personnel,

including psychologists, social workers, central or local administration officials and personnel of child-care institutions. Systematic dissemination of the principles and provisions of the Convention to non-governmental organizations, the mass media and the public at large, including children themselves, should be enhanced. The Committee suggests that the State party incorporate the Convention in school and university curricula. In this regard, the Committee also suggests that the State party consider seeking technical assistance from, inter alia, the Office of the High Commissioner for Human Rights, the International Committee of the Red Cross and UNICEF.

15. In the light of the provisions and principles of the Convention, especially the principles of the best interests of the child (art. 3) and the right to life, survival and development (art. 6), the Committee is deeply concerned at the early legal minimum age of voluntary enlistment into the armed forces. It recommends that the State party raise the legal minimum age of voluntary enlistment into the armed forces in the light of international human rights and humanitarian law.

16. The Committee wishes to express its concern that the State party does not appear to have fully taken into account the provisions of the Convention, especially its general principles, as reflected in its articles 2 (non-discrimination), 3 (best interests of the child), 6 (right to life, survival and development) and 12 (respect for the views of the child), in its legislation, its administrative and judicial decisions, or in its policies and programmes relevant to children. It is the Committee's view that further efforts must be undertaken to ensure that the general principles of the Convention guide policy discussions and decision-making, and are appropriately reflected in any legal revision and in judicial and administrative decisions, as well as in the development and implementation of all projects and programmes which have an impact on children.

17. The Committee is concerned that the welfare policies and practices prevailing in the State party do not adequately reflect the rights-based approach enshrined in the Convention. In this regard, the Committee also notes that the principle of non-discrimination (art. 2) is reflected in the Constitution and in other domestic legislation. However it is concerned that domestic legislation does not explicitly prohibit discrimination on the basis of national or ethnic origin, political or other opinion, and disability. Though Iraqi legislation prohibits discrimination on the basis of sex, the Committee is concerned that in practice there are still disparities between boys and girls, particularly with respect to inheritance rights and the right to education. The Committee encourages the State party to take all appropriate measures, including legislative measures, to ensure non-discrimination at all levels of society and to encourage equality between boys and girls. In this regard, the Committee further recommends that additional measures be taken to ensure the school enrolment of girls, especially in rural areas, and to reduce their drop-out rate, particularly during the compulsory education period.

18. The Committee expresses concern regarding the participatory rights of children. The Committee urges the State party to encourage children to take an active role in the promotion and implementation of the Convention. The

Committee suggests that non-governmental organizations, such as the National Federation of Iraqi Students and Youth, be given a more significant role in promoting the Convention.

19. The Committee is further concerned that in the light of the State party's legislation regarding citizenship, nationality may only be obtained by a child from his/her Iraqi father, except in cases where the father is unknown or stateless. The Committee recommends that domestic legislation be amended to guarantee that the acquisition of Iraqi nationality is determined in the light of the provisions and principles of the Convention, especially articles 2, 3 and 7.

20. In the light of article 19 of the Convention, the Committee expresses its concern that corporal punishment is not expressly prohibited in domestic legislation. The Committee recommends that the State party take all appropriate measures, including of a legislative nature, with the aim of prohibiting corporal punishment at all levels of society. The Committee also suggests that awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially article 28.2.

21. The Committee is concerned at the insufficient awareness of, lack of information on and societal attitude toward ill-treatment and abuse, including sexual abuse, both within and outside the family, the insufficient legal protection measures and appropriate resources, both financial and human, as well as the lack of adequately trained personnel to prevent and combat such abuse. In the light of article 19 of the Convention, the Committee recommends that the State party undertake studies on ill-treatment and abuse, including sexual abuse, and adopt adequate measures and policies, with a view to, inter alia, changing traditional attitudes. It also recommends that cases of abuse and ill-treatment of children, including sexual abuse within the family, be properly investigated, sanctions applied to perpetrators and publicity given to decisions taken in such cases, due regard being given to protecting the right to privacy of the child. Further measures should be taken with a view to ensuring the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and the prevention of criminalization and stigmatization of victims.

22. The Committee notes with grave concern the deteriorating health situation of children, particularly the high and increasing infant and child mortality rates and serious long-term malnutrition, aggravated by poor breastfeeding practices and common childhood diseases. The Committee encourages the State party to develop comprehensive policies and programmes to promote and improve breastfeeding practices, to prevent and combat malnutrition, especially in vulnerable and disadvantaged groups of children, and to consider technical assistance for the integrated management of childhood illnesses and other measures for child health improvement from, inter alia, UNICEF and WHO.

23. The Committee is particularly concerned over the absence of data on adolescent health, including on teenage pregnancy, abortion, suicide, violence and substance abuse. The Committee recommends that the State party promote

adolescent health policies and the strengthening of reproductive health education and counselling services. The Committee further suggests that a comprehensive and multidisciplinary study be undertaken on adolescent health problems. The Committee also recommends that further efforts, both financial and human, be undertaken to develop child-friendly, prevention, care and rehabilitation facilities for adolescents.

24. The Committee expresses concern regarding the availability of facilities and services for persons with disabilities, including children. In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96), the Committee recommends that the State party develop early identification programmes to prevent disabilities, implement alternatives to the institutionalization of children with disabilities, envisage awareness-raising campaigns to reduce discrimination against children with disabilities, establish special education programmes for children with disabilities and encourage their inclusion in the regular school system and society. The Committee further recommends that the State party seek technical cooperation for the training of parents and professional staff working with and for children with disabilities. International cooperation from, inter alia, UNICEF and WHO can be sought to this effect.

25. In the light of the recent economic conditions in the State party, the Committee is also concerned at the number of children leaving school prematurely to engage in labour, particularly girls. The Committee recommends that all appropriate measures be taken to provide equal access to education, encourage children, particularly girls, to stay in school and discourage early entry into the labour force.

26. The Committee notes with concern that the economic exploitation of children has increased dramatically in the past few years and that an increasing number of children are leaving school, sometimes at an early age, to work to support themselves and their families. In this regard, the Committee is also concerned about the existing gap between the age at which compulsory education ends (12 years old) and the minimum legal age for access to employment (15 years old). The Committee recommends that research be carried out on the situation with regard to child labour in the State party, including the involvement of children in hazardous work, to identify the causes and the extent of the problem. Legislation protecting children from economic exploitation should also cover the informal labour sector. The Committee further suggests that the State party consider raising the age at which compulsory education ends to coincide with the minimum legal age for employment.

27. The Committee notes with concern the situation of children living and/or working on the streets, particularly as it relates to economic and sexual exploitation. In this regard, the Ccmmittee encourages the State party to increase preventive measures and its efforts to ensure the rehabilitation and reintegration of these children.

28. While taking into consideration the efforts made by the State party, the Committee notes with concern the situation with respect to landmines, and the threat they pose to the survival and development of children. The Committee

stresses the importance of educating parents, children and the general public about the dangers of landmines and of implementing rehabilitation programmes for victims of landmines. The Committee recommends that the State party review the situation with respect to landmines within a framework of international cooperation, including from United Nations agencies. The Committee further suggests that the State party become a party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and of Their Destruction (1997).

29. The Committee is concerned at the situation with respect to the administration of juvenile justice and in particular its incompatibility with the Convention, as well as other relevant United Nations standards. The Committee recommends that the State party consider taking additional steps to reform the system of juvenile justice in the spirit of the Convention, in particular articles 37, 40 and 39, and of other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to considering deprivation of liberty only as a measure of last resort and for the shortest possible period of time, to the protection of the rights of children deprived of their liberty, to due process of law and to the full independence and impartiality of the judiciary. Training programmes on relevant international standards should be organized for professionals involved with the system of juvenile justice. The Committee suggests that the State party consider seeking technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance in Juvenile Justice.

30. Finally, the Committee recommends that, in the light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the present concluding observations of the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including non-governmental organizations.